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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/765,380	01/22/2001	Fumio Nagashima	1080.1045CIPD3	1046
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STAAS & HALSEY LLP			VO, TED T	
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1201 NEW YORK AVENUE, N.W.			ART UNIT	PAPER NUMBER
WASHINGTON, DC 20005			2191	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/765,380	<b>Applicant(s)</b> NAGASHIMA ET AL.
	<b>Examiner</b> TED T. VO	<b>Art Unit</b> 2191

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(o).

#### Status

- 1) Responsive to communication(s) filed on 13 February 2008.  
 2a) This action is FINAL.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 53-55,58,60 and 61 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 53-55,58,60 and 61 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/CC)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_  
 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

## **DETAILED ACTION**

1. This action is in response to the amendment filed on 02/13/2008.

Claims 53-55, and 58, 60-61 remain pending in the application.

### *Response to Arguments*

2. This is in response to the Applicants' Argument/Remarks filed on 02/13/2008.

With regard to the issue, Double Patenting Rejection, the Applicants' statement in this issue is considered. The rejection for Double Patenting remains maintained until a filing TD is approved.

With regard to the arguments to the rejection under Maxfield and the rejection under AT &T, it appears that the arguments are that both references are silent on "data related to a non-object-oriented software as existing software having a graphical user interface".

Examiner disagrees: Applicants' arguments fail under 1.111 (b) and (c). In the remarks, Applicants fail to discuss the patentability of the added limitation, or patentably point out what the claimed subject is different from the Maxfield and AT&T. The arguments are only a mere generic assertion. With the newly added, "a non-object-oriented software" in the above claimed phrase, Applicants' argument is a mere assertion that the claims will provide a benefit of the data and the component method together in combination with existing software serve as one object to the objects. It should be noted that, the limitations in the claims recited only abstract concepts

that cannot render patentability. These abstract concepts used in the limitations cannot be limited from the disclosures with the same matters.

On the other hand, the claims are generically read as an object oriented component accessible by other objects. That component includes data related to a non-object-oriented software as existing software having a graphical user interface, and a method as a program code to control the computer system. The control is via message in another object, etc.

With regard to the rejection under Maxfield, it should be noted that accessibility by other objects is not new but programming property. The generic claims read on the acts in Maxfield for using a dialog to read existing files. As noted that, Applicants amended "data related to as existing software having a graphical user interface" into "data related to a non-object-oriented software as existing software having a graphical user interface". However, Applicants fails to point out any patentable difference from "existing software". In the reference, the existing files are defined as data and variables. These data and variables are anything of either objects or conventional software because they are just files and data (see p. 3: Object is circle, and data is sandwiched between two paralleled lines). The data cannot make it become patentable difference. The data and variables files can serve as the data to any existing software including non-oriented software.

With regard to the rejection under AT&T, as noted in the rejection, the data is interpreted as data stored in a database as seen in Figure 1.3, p.3, of the AT&T component builder. In p. 9, Figure 1.2, AT&T shows old software together with YEAST for creating new components, where a YEAST component (in boldface) with old software can serve as one via the "method call". Together with Figure 1.2, in p. 14 for describing the Figure 1.3, AT&T mentioned that the

new components that are built will use the existing components of other software. The descriptions in p. 14 clearly suggest that old components and new component are gluing together. Therefore, with the showing Figure 1.2, it suggests that new component and old component are severed as one using the process call. As noted, data is only data that cannot be “object-oriented”.

***Double Patenting***

3. Claims 53-55, and 58, 60-61 are rejected on the ground of nonstatutory double patenting over claims 1 or 2 of U. S. Patent No. **6,557,165 B1**. Although the conflicting claims are not identical, they are not patentably distinct from each other because: See previous office action.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 53-55, 58, and 60-61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kirshnamurthy, "Practical Reusable Unix Software", John Wiley & Sons, Inc, copyright 1995 AT&T (hereinafter: AT&T).

Given the broadest reasonable interpretation of followed claims in light of the specification.

As per claim 53: AT&T discloses,

*"A computer readable storage medium storing an object oriented programming component accessible by objects in a computer system, comprising: data related to a non-object-oriented software as existing software having a graphical user interface* (Interpret as data/components of old software (this software is also having GUI) storing in the computer storage/database as shown in Figure 1.3. For example, using a *watched* and *last* shown in p. 17, sec. 1.5.3) (*GUI*). *the data including GUI identification and GUI event information as GUI data for the existing software with the GUI in the computer system* (See Fig. 1.3, p. 13), and

*as a component method for the existing software, a program code to* (i.e. existing and generated components)

*control the computer system according to a process of receiving a message issued in another object* (See Figure 1.2: i.e. receive "New libast"/"Fixed libast"), *and driving the existing software by issuing a GUI event of the existing software to the existing software, based upon the GUI data of the existing software in response to the received message* (See all events come out at the Rebuilt component, and refer to the Figure 1.3, for a GUI that is used to control receiving and driving the existing software by such GUI events),

*wherein the data and the component method together in combination with the existing software serve as one object to the objects* (i.e. see p. 14, last paragraph: component builder/new components).

With the existing software and data stored in the database that has a graphical interface together with YEAST, AT&T does not express *data related to a non-object-oriented software as existing software.*

It is obvious to an ordinary in the art at the time of filing to use data as of "existing software", as from any data calls to other software including *non-object-oriented software*, because data and variables are only symbols that are independent from software semantic, where the adding of *a non-object-oriented software* merely as changes in shape, or making separable, or as making adjustable of a component that cannot make the claim patentable over the reference/prior art (In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966) , In re Dulberg, 289 F.2d 522, 523, 129 USPQ 348, 349 (CCPA 1961), In re Stevens , 212 F.2d 197, 101 USPQ 284 (CCPA 1954),

Therefore, it is obvious to use data in the component as parameters for connecting with its own software or other software as an adjustment for conforming to the programming requirement.

As per claim 54: AT&T discloses,

*The computer readable storage according to claim 53, wherein said component further includes a message for informing other objects that the GUI event of the existing software is*

*issued.* See Figure 1.2, and further see sec 9, starts p. 247 and Figure 10.2 in p 279 for event handling.

As per claim 61: AT&T discloses, *The computer readable storage medium according to claim 53, wherein the GUI event to the existing software is issued through a GUI manager of the computer system* (see Figures 1.2 and 1.3, where Figure 1.3 is a GUI).

As per claim 55: Regarding limitation, Claimed limitation has the functionality corresponding to the functionality of Claims 53-54, 61. Rejection has the same rationale as set forth in Claims 53-54, 61.

As per Claim 58: Claimed limitation has the functionality corresponding to the functionality of Claims 53-54, 61. Rejection has the same rationale as set forth in Claims 53-54, 61.

As per Claim 60: Claimed limitation has the functionality corresponding to the functionality of Claims 53-54, 61. Rejection has the same rationale as set forth Claims 53-54, 61.

6. Claims 53-55, 58, and 60-61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maxfield, "Designing With Objects", MacTech, 1991.

Given the broadest reasonable interpretation of followed claims in light of the specification.

As per claim 53: Maxfield discloses,

*"A computer readable storage medium storing an object oriented programming component accessible by objects in a computer system, comprising:*

*data related to a non-object-oriented software as existing software having a graphical user interface (Interpret as existing files) related to existing software having a graphical user interface (GUI) ('Dialog Box'), the data including GUI identification and GUI event information as GUI data for the existing software with the GUI in the computer system (See Diagram 2, p. 3, an SFGetFile Dialog. See p. 5, second paragraph, e.g. 'selected file'), and as a component method (Interpret as an issuing arrow) for the existing software, a program code to control the computer system according to a process of receiving a message issued in another object, and driving the existing software by issuing a GUI event of the existing software to the existing software, based upon the GUI data of the existing software in response to the received message, wherein the data and the component method together in combination with the existing software serve as one object to the objects (See Diagrams 2-4, p. 3-4, Diagram 5, p. 5 and associated descriptions).*

Maxfield does not address existing files which have data and variables as being *related to a non-object-oriented software as existing software.*

It is obvious to an ordinary in the art at the time of filing to use data as of "existing files", as from any data calls to other software including non-object-oriented software, because data and variables are only symbols that are independent from software semantic, where the adding of a non-object-oriented software merely as changes in shape, or making separable, or as making adjustable of a component that cannot make the claim patentable over the reference/prior art (In

re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966), In re Dulberg, 289 F.2d 522, 523, 129 USPQ 348, 349 (CCPA 1961), In re Stevens, 212 F.2d 197, 101 USPQ 284 (CCPA 1954),

Therefore, it is obvious to use data in the component as parameters for connecting with its own software or other software as an adjustment for conforming to the programming requirement.

As per claim 54: Maxfield discloses,

*The computer readable storage according to claim 53, wherein said component further includes a message for informing other objects that the GUI event of the existing software is issued.* (See Diagrams, refer to the arcs, and see p.1-2, sec. 1 Messages – e.g. ACK/NAK).

As per claim 61: Maxfield discloses, *The computer readable storage medium according to claim 53, wherein the GUI event to the existing software is issued through a GUI manager of the computer system* (See Diagrams, refer to the arcs, and see p.1-2, sec. 1 Messages – e.g. ACK/NAK).

As per claim 55: Regarding limitation, Claimed limitation has the functionality corresponding to the functionality of Claims 53-54, 61. Rejection has the same rationale as set forth in Claims 53-54, 61.

As per Claim 58: Claimed limitation has the functionality corresponding to the functionality of Claims 53-54, 61. Rejection has the same rationale as set forth in Claims 53-54, 61.

As per Claim 60: Claimed limitation has the functionality corresponding to the functionality of Claims 53-54, 61. Rejection has the same rationale as set forth in Claims 53-54, 61.

***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ted T. Vo whose telephone number is (571) 272-3706. The examiner can normally be reached on 8:00AM to 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wei Y. Zhen can be reached on (571) 272-3708.

The facsimile number for the organization where this application or proceeding is assigned is the Central Facsimile number 571-273-8300.

Any inquiry of a general nature or relating to the status of this application should be directed to the TC 2100 Group receptionist: 571-272-2100. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TTV  
May 08, 2008

/Ted T. Vo/  
Primary Examiner, Art Unit 2191